

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
AMENDED INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend subsections 5, 12.5, 18.5(B), 43.5, 59.5, 68, 118(B), 124, 129(B),
156, 168.5, 186(B), 198(E) and 212(A) of Section 7.50(b)
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing

- I. Date of Initial Statement of Reasons: February 13, 2008
- II. Date of Amended Initial Statement of Reasons: April 23, 2008
- III. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 8, 2008
Location: San Diego, CA
 - (b) Discussion Hearing: Date: March 7, 2008
Location: Stockton, CA
 - (c) Discussion Hearing: Date: April 11, 2008
Location: Bodega Bay, CA
 - (d) Discussion Hearing: Date: April 15, 2008
Location: Teleconference
 - (e) Adoption Hearing: Date: May 9, 2008
Location: Monterey, CA
- IV. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off the coasts of Washington, Oregon, and California.

The text in bold below replaces the text from original Initial Statement of Reasons and Informative Digest.

PFMC FINAL ACTION

The PFMC has determined that the Sacramento River Fall Chinook (SRFC) merits further protection as the stocks are projected to be at a record low abundance level in 2008. The projected 2008 SRFC escapement to the Central Valley is 59,000 SRFC adults and assumes no further fishing in 2008.

The National Marine Fisheries Service (NMFS) has determined that poor ocean conditions are a major factor of the low 2008 SRFC abundance. The NMFS also expects these poor conditions to continue affecting subsequent years' SRFC escapements in the near future. The 2008 projected SRFC adult escapement is 52% below the lower boundary of the FMP conservation goal of 122,000 to 180,000 SRFC adult escapement, and the state and federal SRFC mitigation hatcheries are also projected to fall below the 22,000 SRFC needed to meet the annual egg take goals.

On March 14, 2008, the PFMC approved three regulatory options for public review which provided harvest recommendations for the Central Valley salmon recreational fishery in response to the projected low 2008 SRFC escapement. The three PFMC options are shown below:

- 1) Option 1- a 1,000 adult SRFC quota for the Central Valley salmon recreational fishery; and
- 2) Options 2 and 3 - no retention of adult SRFC in the Central Valley salmon recreational fishery.

The PFMC adopted Option 3 on April 10, 2008 which requires no retention of adult SRFC in the Central Valley salmon recreational fishery.

CENTRAL VALLEY SALMON REGULATORY OPTIONS

In response to the PFMC action, the Department is proposing a zero salmon bag limit in the 14 originally proposed Central Valley rivers and streams for discussion, except for very limited salmon fisheries in the American, Feather and Sacramento rivers where the following three fishery options are proposed for Commission consideration.

1. Option 1 provides salmon fishing with a one salmon bag limit in the American and Feather rivers from January 1 through July 15 to provide limited access to spring Chinook and the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31 to provide limited access to late-fall Chinook.
2. Option 2 provides salmon fishing with a one salmon bag limit in the American and Feather rivers from February 1 through July 15 to provide limited access to spring Chinook and the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31 to provide limited access to late-fall Chinook.
3. Option 3 is a zero bag limit in all areas of the American, Feather and Sacramento rivers. This option will provide maximum protection to SRFC in the American, Feather and Sacramento rivers, but allows no access to non-fall salmon stocks.

The Department is proposing these very limited options based upon the following information.

1. The 2000-2003 mean coded-wire-tag (CWT) data for creel sampling shows approximately 128 SRFC in the American River, approximately 150 SRFC in the Feather River and 0 SRFC in the Sacramento River were recovered during the dates and locations of the proposed options.
2. The 2000-2004 CWT data for carcass surveys and hatchery returns shows no SRFC were recovered in the American and Feather Rivers during the dates and locations of the proposed options.
3. The SRFC CWTs recovered in the American River were from Feather River strays where past Feather River Hatchery practices resulted in mixed fall and spring stocks.

PROPOSED REGULATION REVISIONS

The proposed revisions from current regulations are discussed in the following paragraphs:

In all options, the following revisions are proposed:

The phrase “king salmon” is proposed to be changed “salmon” in the bag limits of subsections 7.50(b)(5), (68) and (129) to standardize terminology within subsection 7.50(b). Only Chinook (king) salmon are allowed to be retained within the state’s anadromous waters.

The date of February 28 in subsection 7.50(b)(212)(A) is proposed to be changed to the last day in February to include February 29 during leap years.

As originally proposed, the Department is recommending a zero salmon bag limit for the following 11 Central Valley rivers and streams to provide protection for SRFC and other fall Chinook stocks:

1. Auburn Ravine Creek, subsection 7.50(b)(12.5)
2. Bear River, subsection 7.50(b)(18.5)(B)
3. Coon Creek, subsection 7.50(b)(43.5)
4. Dry Creek, subsection 7.50(b)(59.5)
5. Merced River, subsection 7.50(b)(118)(B)
6. Mokelumne River, subsection 7.50(b)(124)(A) and (B)
7. Napa River, subsection 7.50(b)(129)(B)
8. San Joaquin River, subsection 7.50(b)(168.5)
 - a. Subsection (A)
 - b. Subsection (B) and (C) from January 1 to October 31
9. Stanislaus River, subsection 7.50(b)(186)(B)
10. Tuolumne River, subsection 7.50(b)(198)(E)
11. Yuba River, subsection 7.50(b)(212)(A) from January 1 to the last day in February and August 1 through October 15.

Additional minor changes were made to the regulations for clarity and to reduce public confusion.

Option 1 for the American, Feather, and Sacramento rivers

Feather River, subsection 7.50(b)(68)(E) is proposed to end at the Highway 99 bridge near Nicolaus and a new subsection (F) will be added from the Highway 99 bridge to the Feather River mouth. The new subsection will allow closure of the Feather River mouth along with adjacent Sacramento River closures for enforcement purposes.

Sacramento River, subsection 7.50(b)(156)(J) is proposed to end at the Highway 113 bridge near Knights Landing and a new subsection (K) will be added from the Highway 113 bridge to the Carquinez Bridge. The new subsection will allow a year-round zero salmon bag limit on the Sacramento River from the Highway 113 bridge to the Carquinez Bridge to provide protection for SRFC.

For the subsections 7.50(b)(5)(A) through (D), (68)(C) through (E) and (156)(H) and (J), the open seasons are proposed to be re-aligned by date starting with January 1 for regulation clarity and to reduce public confusion.

The following areas are recommended for a zero salmon bag limit to provide protection for SRFC:

1. American River, subsection 7.50(b)(5)
 - a. Subsections (A) and (D) from July 16 to December 31
 - b. Subsection (B) from July 16 to September 14
 - c. Subsection (C) from July 16 to October 31
 - d. Subsection (E) from January 1 to December 31
2. Feather River, subsection 7.50(b)(68)
 - a. Subsections (C) and (D) from July 16 to December 31
 - b. Subsection (E) from March 1 to December 31
 - c. New subsection (F) from January 1 to December 31
3. Sacramento River, subsection 7.50(b)(156)
 - a. Subsection (H) from January 1 to December 31
 - b. Subsection (J) from January 1 to October 31
 - c. New subsection (K) from January 1 to December 31

The following areas are proposed to remain open with a bag limit of one salmon to access spring Chinook:

1. American River, subsection 7.50(b)(5)
 - a. Subsections (A) through (D) from January 1 to July 15
2. Feather River, subsection 7.50(b)(68)
 - a. Subsections (C) and (D) from January 1 to July 15
 - b. Subsection (E) from January 1 to the last day in February

The following areas are proposed to remain open with a bag limit of one salmon to access late-fall Chinook:

1. Sacramento River, subsection 7.50(b)(156)
 - a. Subsection (J) from November 1 to December 31

Option 2 for the American, Feather, and Sacramento rivers

Feather River, subsection 7.50(b)(68)(E) is proposed to end at the Highway 99 bridge near Nicolaus and a new subsection (F) will be added from the Highway 99 bridge to the Feather River mouth. The new subsection will allow closure of the Feather River mouth along with adjacent Sacramento River closures for enforcement purposes.

Sacramento River, subsection 7.50(b)(156)(J) is proposed to end at the Highway 113 bridge near Knights Landing and a new subsection (K) will be added from the Highway 113 bridge to the Carquinez Bridge. The new subsection will allow a year-round zero salmon bag limit on the Sacramento River from the Highway 113 bridge to the Carquinez Bridge to provide protection for SRFC.

For the subsections 7.50(b)(5)(A) through (D), (68)(C) through (E) and (156)(H) and (J), the open seasons are proposed to be re-aligned by date starting with January 1 for regulation clarity and to reduce public confusion.

The following areas are recommended for a zero salmon bag limit to provide protection for SRFC:

1. American River, subsection 7.50(b)(5)
 - a. Subsections (A) and (D) from January 1 to January 31 and July 16 to December 31
 - b. Subsection (B) from January 1 to January 31 and July 16 to September 14
 - c. Subsection (C) from January 1 to January 31 and July 16 to October 31
 - d. Subsection (E) from January 1 to December 31
2. Feather River, subsection 7.50(b)(68)
 - a. Subsections (C) and (D) from January 1 to January 31 and July 16 to December 31
 - b. Subsection (E) from January 1 to January 31 and March 1 to December 31
 - c. New subsection (F) from January 1 to December 31
3. Sacramento River, subsection 7.50(b)(156)
 - a. Subsection (H) from January 1 to December 31
 - b. Subsection (J) from January 1 to October 31
 - c. New subsection (K) from January 1 to December 31

The following areas are proposed to remain open with a bag limit of one salmon to access spring Chinook:

1. American River, subsection 7.50(b)(5)
 - a. Subsections (A) through (D) from February 1 to July 15
2. Feather River, subsection 7.50(b)(68)
 - a. Subsections (C) and (D) from February 1 to July 15
 - b. Subsection (E) from February 1 to the last day in February

The following areas are proposed to remain open with a bag limit of one salmon to access late-fall Chinook:

1. Sacramento River, subsection 7.50(b)(156)
 - a. Subsection (J) from November 1 to December 31

Option 3 for the American, Feather, and Sacramento rivers

This option provides maximum protection to SRFC in the American, Feather and Sacramento rivers, but allows no access to non-fall salmon stocks.

The following areas are recommended for a zero salmon bag limit:

- 1. American River, subsection 7.50(b)(5)**
 - a. Subsections (A) and (D) for all year**
 - b. Subsection (B) from January 1 to September 14**
 - c. Subsection (C) from January 1 to October 31**
 - d. Subsection (E) from July 16 to December 31**
- 2. Feather River, subsections 7.50(b)(68)**
 - a. Subsection (C) from January 1 to last day of February, March 1 through July 15 and July 16 to September 30**
 - b. Subsection (D) from March 1 through July 15 and July 16 through the last day in February**
 - c. Subsection (E) from July 16 through the last day in February**
- 3. Sacramento River, subsection 7.50(b)(156)**
 - a. Subsection (H) from August 1 through August 30 and August 31 through January 14**
 - b. Subsection (J) from July 16 to December 31**

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 215, and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Pacific Fishery Management Council. 2008. *Preseason Report II: Analysis of Proposed Regulatory Options for 2008 Ocean Salmon Fisheries*. Pacific Fishery Management Council. 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220.

Pacific Fishery Management Council. 2008. *Preseason Report III: Analysis of Council Adopted Management Measures for 2008 Ocean*

Salmon Fisheries. Pacific Fishery Management Council. 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings were held prior to the notice publication. The PFMC held a series of public hearings to receive input prior to finalizing the recreational salmon recommendations in April.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The Commission could reduce season duration for salmon, require additional gear restrictions, or close entire river systems for all fisheries which include trout, steelhead, striped bass, sturgeon and other non-salmonids.

(b) No Change Alternative:

The no change alternative would result in continued low abundance of CV salmon, additional federal measures on listed CV salmon stocks, or severe restrictions on California's inland salmon fisheries.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Under a normal season, Central Valley sport salmon anglers contribute about \$14,500,000 in direct revenues to the State's business sector. This is based on a 2006 US Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California. Adding the indirect and induced effects of this initial revenue contribution and the total benefit to California's economy is normally about \$20,300,000. This is equivalent to about \$7,800,000 in total wage earnings to Californians, or about 166 jobs in the state. Depending on which of the following three options that the Commission adopts, the following statewide impacts to businesses may occur.

Option 1 would result in an 87.3 percent reduction in the available angling days of the Central Valley salmon recreational fishing under normal fishing season. Using national data on recreational angler expenditures on goods and services, we estimate the direct loss to the business community of about \$12,600,000. Because of the indirect and induced affects of this loss, California's total economic output is estimated to be reduced \$17,700,000. Adverse impacts to total wage earnings and California jobs would be about \$6,800,000 and 145, respectively.

Option 2 would result in an 89.0 percent reduction in the available angling days of the Central Valley salmon recreational fishing under normal fishing season. Using national data on recreational angler expenditures on goods and services, the direct loss to the business community is estimated to be about \$12,900,000. Because of the indirect and induced affects of this loss, California's total economic output is estimated to be reduced \$18,100,000. Adverse impacts to total wage earnings and California jobs would be about \$6,900,000 and 147, respectively.

Option 3 would result in a 100 percent reduction in the available angling days of the Central Valley salmon recreational fishing under normal fishing season. Using national data on recreational angler expenditures on goods and services, the direct loss to the business community is estimated to be about \$14,500,000. Because of the indirect and induced affects of this loss, California's total economic output is estimated to be reduced \$20,300,000. Adverse impacts to total wage earnings and California jobs would be about \$7,800,000 and 166, respectively.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Option 1 would result in an 87.3 percent reduction in the available angling days of the Central Valley salmon recreational fishing under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 145 jobs.

Option 2 would result in an 89.0 percent reduction in the available angling days of the Central Valley salmon recreational fishing under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 147 jobs.

Option 3 would result in a 100 percent reduction in the available angling days of the Central Valley salmon recreational fishing under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 166 jobs.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. **There are no new reporting requirements imposed as a result of the proposed regulations.**

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

There are no new reporting requirements to State agencies as a result of the proposed regulations. However, reduced recreational fishing opportunities would likely result in revenue impacts to the State, estimated to be up to \$1,819,069. This is due to reduced demand for recreational fishing licenses, permits, and or stamps, normally purchased from the State, increased enforcement, and outreach and education about the 2008 inland salmon season.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Informative Digest (Policy Statement Overview)

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 - a. Subsections (A) and (D) from July 16 to December 31
 - b. Subsection (B) from July 16 to September 14

- c. Subsection (C) from July 16 to October 31
 - d. Subsection (E) from January 1 to December 31
- 2. Feather River, subsection 7.50(b)(68)
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The following areas are proposed to remain open with a bag limit of one salmon to access late-fall Chinook:

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 - a. Subsection (J) from November 1 to December 31

Option 2 for the American, Feather, and Sacramento rivers

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This option provides maximum protection to SRFC in the American, Feather and Sacramento rivers, but allows no access to non-fall salmon stocks.

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 - a. Subsection (C) from January 1 to last day of February, March 1 through July 15 and July 16 to September 30

- b. Subsection (D) from March 1 through July 15 and July 16 through the last day in February
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 - a. Subsection (H) from August 1 through August 30 and August 31 through January 14
 - b. Subsection (J) from July 16 to December 31